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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,738	02/12/2004	Bernard O. Domries		3624

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EXAMINER

BATSON, VICTOR D

ART UNIT PAPER NUMBER

3671

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/776,738	Applicant(s) DOMRIES, BERNARD O.	
	Examiner Victor Batson	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rear gang of instruments (claims 6-12) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1-12 are objected to because of the following informalities: In claim 1 line 9, "the said" should be changed to either "the" or "said". In claim 1 line 15, it appears

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that "the" should be inserted before "left". In claim 5 line 2, it appears that "the wing" should be changed to "each wing". In claim 9 line 2, "the path of travel" lacks proper antecedent basis. In claim 10 line 2, "the transport mode" lacks proper antecedent basis. In claim 10 lines 2-3, "the work mode" lacks proper antecedent basis. In claim 11 line 2, "the work mode" lacks proper antecedent basis. In claim 11 line 3, "the transport mode" lacks proper antecedent basis. In claim 12 line 4, "the wing" and "the locking pin" lack proper antecedent basis. In claim 12 line 5, "the transport mode" lacks proper antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meek et al. (5,921,325) in view of Friggstad (6,550,543).

Meek et al. discloses a farm implement comprising a frame 12, left wing 16, and right wing 14, with soil working implements and a hydraulic system (comprising hydraulic cylinders 58) for lifting the wings as shown in figures 5-7. It is noted that Meek et al. further discloses wheels 20 and four lifting mechanisms (considered the combination of hydraulic cylinders and linkage used to lift the wings) powered by the hydraulic system as shown in figures 5-7. It is further noted that Meek et al. discloses the use of a hold-down mechanism operating in both a locked position and a flex

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position (col 5 line 50-col 6 line20). Concerning claim 5, members 24 & 26 are considered the support arm and member 46 is considered the hold-down box.

Meek et al. however lacks specifying that the implement is capable of being transported within an envelope approximately eight feet wide, forty feet long and fourteen feet above road level. Meek et al. however discloses that the center section is the determining factor for road width requirements and that the overall stack folded device should provide a low profile and narrow width to facilitate transport and provide compliance with road limits.

Friggstad teaches that it is known in the art that road width and height limits may be generally 3 meters wide and 4 meters high (col. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the device of Meek et al. such that it could meet road width and height limits of generally 3 meters wide and 4 meters high as taught by Friggstad, so that the implement can be legally transported on standard roadways.

Concerning claims 3 & 8, Meek et al. as modified by Friggstad discloses the claimed invention except for not specifying the dimensions of the hydraulic cylinders. It would have been an obvious-matter of design choice to form the hydraulic cylinders with a bore of approximately three inches and a stroke of approximately eight inches since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

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Concerning the limitations of rear gang of instruments, it is the examiner's position that such would have been obvious to one of ordinary skill in the art at the time the invention was made since the use of a rearward gang of instruments with a forward gang of instruments is notoriously old and well known in the art (as taught by Friggstad '543), and since such would constitute a duplication of parts. It has been held that mere duplication of the essential working parts of a device involves only routing skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Concerning claim 9, the examiner take Official Notice that it is notoriously old and well known in the art to make disc gangs adjustable relative to the path of travel. This allows the spacing between multiple implements or disc angles to be adjusted depending on the operation being performed or the crop being planted.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 7, 2005



Victor Batson
Primary Examiner
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